

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6043 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KHEDA JILLA PANCHAYAT

Versus

GHANSHYAMSINH A CHASATHIYA

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Appearance:

MR PJ PATEL for Petitioner

MR HK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 14/02/97

ORAL JUDGEMENT

The petitioner Panchayat has challenged the order and award of the Labour Court, Nadiad, dated 19.11.95 in Reference (LCN) No.59/88, by filing this petition under Article 226 and 227 of the Constitution of India.

An industrial dispute whether the respondent workman is entitled to be reinstated with full backwages referred to

the Labour Court was allowed quashing the termination of service and directing the petitioner Panchayat to reinstate the respondent with 30 per cent of backwages.

The first contention raised by learned advocate for the petitioner Panchayat that the workman had abandoned the service and his service was not terminated is reiterated for being rejected in view of the facts and circumstances and the evidence emerging from the record of the present case. The Labour Court, upon the evidence on record rightly reached to the conclusion that the respondent workman had not abandoned the service, but his service was illegally terminated. This finding of fact has remained unassailable. Once the service is terminated in violation of the provisions of section 25-F of the Industrial Disputes Act, 1947 (ID Act) which is void ab initio, the order of reinstatement and in the facts and circumstances the direction for payment of 30 per cent of backwages could not be shown to be perverse, unjust, or illegal requiring interference of this Court exercising extraordinary, discretionary, equitable, plenary, writ jurisdiction or supervisory jurisdiction under Article 226 and 227 of the Constitution of India. Having regard to the facts and circumstances, the ratio propounded by the decision of a Division Bench of this Court in M.P.Ramanandi vs. Gujarat State Warehousing Corporation, 1985 (2) GLR 1040 is directly attracted to the present case. This case is squarely covered by the said decision.

With the result, this petition is rejected. Rule discharged. In view of the interim order passed by this Court directing the petitioner Panchayat to deposit an amount of Rs.2,000/- towards the likely expenditure of the respondent workman, office is directed to pay the amount of Rs.2,000/- to the respondent workman by way of costs. The petitioner is directed to reinstate the respondent workman as early as possible but not later than two weeks from today and shall pay the amount of backwages early but not later than four weeks from today.

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